

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

**IN RE:
PURSUE ENERGY CORPORATION**

**CHAPTER 11
CASE NO. 0205339JEE**

JAMES B. "RUSTY" SYKES, JR., ET. AL.

VS.

ADVERSARY NO. 050107

PURSUE ENERGY CORPORATION

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FINDINGS OF FACT

AND CONCLUSIONS OF LAW ON THE (1) MOTION FOR CONTEMPT AND SANCTIONS AGAINST THE SYKES PLAINTIFFS A/K/A CERTAIN ROYALTY OWNERS AND THEIR ATTORNEYS FOR VIOLATION OF THE JULY 24, 2004 ORDER AMENDING FINDINGS AND JUDGMENT AND PREVIOUS ORDERS OF THIS COURT REGARDING THE SECOND LIFT STAY MOTION FILED BY CERTAIN ROYALTY OWNERS AND FOR VIOLATION OF SECTION 362 OF THE BANKRUPTCY CODE FILED BY THE DEBTOR AND (2) PLAINTIFFS' EMERGENCY MOTION TO REMAND AND FOR SANCTIONS FILED BY THE PLAINTIFF ROYALTY OWNERS

THIS MATTER came before the Court on the *Motion for Contempt and Sanctions Against the Sykes Plaintiffs a/k/a Certain Royalty Owners and Their Attorneys for Violation of the July 24, 2004 Order Amending Findings and Judgment and Previous Orders of this Court Regarding the Second Lift Stay Motion Filed by Certain Royalty Owners and for Violation of Section 362 of the Bankruptcy Code* (Motion for Contempt) filed by the Debtor on March 1, 2005, and the *Response of Certain Royalty Owners and Their Counsel to Debtor's Motion for Contempt and Sanctions Against the Sykes Plaintiffs a/k/a Certain Royalty Owners and Their Attorneys for Violation of the July 24, 2004 Order Amending Findings and Judgment and Previous Orders of this Court Regarding the Second Lift Stay Motion Filed by Certain Royalty Owners and for Violation of Section 362 of the Bankruptcy Code* (Response) filed on April 13, 2005, by the plaintiffs in the Chancery Court of Simpson County, Mississippi, case of James B. "Rusty" Sykes, Jr., *et. al v. Pursue Energy Corporation*, Civil Action No. 2000-0525 (collectively Plaintiff Royalty Owners). Also before the Court in the above styled adversary proceeding is the *Plaintiff's Emergency Motion to Remand and for Sanctions* (Motion to Remand) filed on March 17, 2005, by the Plaintiff Royalty Owners, and *Pursue's Opposition to Motion to Remand* filed on April 8, 2005, by the Debtor. After considering the Motion for Contempt, the Response and the separate brief submitted by the Royalty Owners, the Court finds that the Motion for Contempt is not well taken and should be denied. After considering the Motion to Remand, the response thereto and the briefs, the Court finds that the

motion is well taken in part and should be granted in part and that the Simpson County Litigation should be remanded to the Chancery Court of Simpson County, Mississippi.

FINDINGS OF FACT

The matters currently before the Court are another chapter in a long history of litigation, in both State and Federal courts, between the Debtor and the Plaintiff Royalty Owners. In prior opinions of this Court¹, the Court has given a detailed history of the Debtor and of the litigation between the Debtor and the Plaintiff Royalty Owners. Briefly, the Debtor leases mineral rights from royalty owners in four gas fields located in Rankin County and Simpson County, Mississippi. The Debtor processes the poisonous gas obtained from these fields and turns it into a marketable product.

In December of 2000, the Plaintiff Royalty Owners² filed suit in the Chancery Court of Simpson County, Mississippi, (Simpson County Litigation) against the Debtor. Basically, the Plaintiff Royalty Owners alleged that the Debtor had charged them excessive and unreasonable gas processing costs. After extensive discovery and two separate mediation sessions, the matter was set for trial. The chancery court trial began on February 11, 2002, and continued through February 14,

¹See Ellington, J., *In re Pursue Energy Corp.*, Case No. 0205339JEE, *Findings of Fact and Conclusion of Law on the Motion of Certain Royalty Owners to Lift Stay for Purposes of Allowing Chancery Court of Simpson County to Enter Ruling*, June 16, 2003; Ellington, J., *In re Pursue Energy Corp.*, Case No. 0205339JEE, *Findings of Fact and Conclusions of Law on the Second Motion of Certain Royalty Owners to Lift Stay for Purposes of Allowing Chancery Court of Simpson County to Further Rule*, May 26, 2004.

²The original number of Plaintiff Royalty Owners involved in the Simpson County lawsuit was thirty-six of the total 1806 royalty owners. However, as of July 20, 2004, when the Court entered its order amending its May 26, 2004, *Findings of Fact and Conclusions of Law on the Second Motion of Certain Royalty Owners to Lift Stay for Purposes of Allowing Chancery Court of Simpson County to Further Rule* the number of Plaintiff Royalty Owners was fifty-seven. For purposes of this opinion, when referring to the Plaintiff Royalty Owners, the Court means these fifty-seven Plaintiff Royalty Owners.

2002. After the conclusion of the trial, the parties again attempted to reach a settlement and participated in a court-sponsored mediation. In mid-September 2002, the parties informed the chancellor that they could not settle the matter. The chancellor then advised the parties that he would enter his ruling within days. On September 20, 2002, prior to the chancellor entering his opinion, the Debtor filed a petition under Chapter 11 of the United States Bankruptcy Code.

The Plaintiff Royalty Owners subsequently filed their *Motion of Certain Royalty Owners to Lift Stay for Purposes of Allowing Chancery Court of Simpson County to Enter Ruling*. On June 16, 2003, this Court entered its *Findings of Fact and Conclusion of Law on the Motion of Certain Royalty Owners to Lift Stay for Purposes of Allowing Chancery Court of Simpson County to Enter Ruling* and a *Final Judgment* in which the Court lifted the stay to the extent delineated below:

- a) The Chancellor is allowed to rule on the Plaintiff Royalty Owners' case styled "James B. Rusty Sykes, Jr. et. al. v. Pursue Energy Corporation," Civil Action No. 2000-0525, which is pending in the Chancery Court of Simpson County, Mississippi;
- b) Any such judgment is not final and the appeal time is tolled, pending further order of the Bankruptcy Court;
- c) Any such judgment shall not be enrolled as a secured claim, pending further order of the Bankruptcy Court;
- d) The termination of the stay is specifically limited to the Plaintiff Royalty Owners listed in the chancery court suit; and
- e) In the event the Plaintiff Royalty Owners receive a ruling in their favor, the Plaintiff Royalty Owners may not be allowed to proceed with any collection efforts of any kind except through the bankruptcy proceeding, pending further order of the Bankruptcy Court.

The Court further held that it retained jurisdiction of the motion in order to "further consider the said motion as may be necessary after ruling is entered in the Chancery Court of Simpson County, Mississippi." *In re Pursue Energy Corp.*, Case No. 0205339JEE, *Final Judgment on the Motion of*

Certain Royalty Owners to Lift Stay for Purposes of Allowing Chancery Court of Simpson County to Enter Ruling, p.1-2 (June 16, 2003).

On October 7, 2003, the chancellor entered his opinion in the Simpson County Litigation. While the chancellor did award compensatory damages to the Plaintiff Royalty Owners, the chancellor did not make any findings as to punitive damages or attorneys fees. The chancellor held:

The Court further finds that the Federal Court order instructed this Court not to make a finding as to punitive damages or attorneys fees and therefore no ruling or finding is made in this regard.

The Court further finds that a bifurcated hearing was conducted, not taking any testimony as to punitive damages or attorneys fees, that should the same be remanded by the Bankruptcy Court or the stay lifted that this order is not to be taken as a final appealable order but a date should be set to hear any matters pertaining to punitive damages and attorneys fees so that a final judgment, appealable pursuant to the Rule, may be entered.

Buffington, J., *Sykes vs. Pursue Corporation*, Cause No. 2000-0525, *Ruling: Memorandum Opinion*; Chancery Court of Simpson County; p. 2 (October 7, 2003).

On October 22, 2003, the Plaintiff Royalty Owners filed their *Second Motion of Certain Royalty Owners to Lift Stay for Purposes of Allowing Chancery Court of Simpson County to Further Rule* (Second Motion). On May 26, 2004, this Court entered its *Findings of Fact and Conclusions of Law on the Second Motion of Certain Royalty Owners to Lift Stay for Purposes of Allowing Chancery Court of Simpson County to Further Rule* and a *Final Judgment* on the Second Motion. In its ruling, the Court denied the Plaintiff Royalty Owners' request to lift the stay in order to permit the Plaintiff Royalty Owners to file a motion with the chancellor requesting that the chancellor apply his ruling to an additional 495 royalty owners. However, the Court did lift the stay to allow the chancellor to rule on the Plaintiff Royalty Owners' request for punitive damages and attorneys fees. The Court again retained jurisdiction of the Second Motion pending the ruling of the chancellor on

the request for punitive damages and attorneys fees.

On July 20, 2004, the Court entered its *Order Amending Findings and Judgment* (Order Amending). In the Order Amending, the Court clarified its May 26, 2004, opinion on the Second Motion to state that “the lifting of the § 362 automatic stay including as to punitive damages and attorneys fees is limited to the Simpson County Plaintiffs listed on the attached Exhibit “A” and not any other royalty owners.” *In re Pursue Energy Corp.*, Case No. 0205339JEE, *Order Amending Findings and Judgment*, p. 2 (July 20, 2004). Exhibit A to the Order Amending listed the names of the fifty-seven Plaintiff Royalty Owners to which the Court was lifting the stay.

The Debtor appealed this Court’s Order Amending to the United States District Court for the Southern District of Mississippi. On January 5, 2005, Judge Tom S. Lee entered his *Order* affirming the opinion of this Court.³

On January 27, 2005, the Plaintiff Royalty Owners filed in the Chancery Court of Simpson County their *Plaintiffs’ First Supplemental Pleading Supporting Claim for Punitive Damages, Attorneys’ Fees, and Other Relief* (Supplemental Pleading). In response to this pleading, the Debtor initiated two separate actions. On February 25, 2005, the Debtor removed the Simpson County Litigation to the United States District Court for the Southern District of Mississippi, and on March 1, 2005, the Debtor filed in this Court its *Motion for Contempt and Sanctions Against the Sykes Plaintiffs a/k/a Certain Royalty Owners and Their Attorneys for Violation of the July 24, 2004 Order Amending Findings and Judgment and Previous Orders of this Court Regarding the Second Lift Stay*

³The Debtor filed a notice of appeal of this *Order* in early 2005. On September 21, 2006, the parties filed a joint stipulation of dismissal of the appeal with the United States Court of Appeals for the Fifth Circuit. Therefore, all three of the orders entered by this Court lifting the stay are final orders.

Motion Filed by Certain Royalty Owners and for Violation of Section 362 of the Bankruptcy Code.

In its Motion for Contempt, the Debtor alleges that the Plaintiff Royalty Owners violated this Court's two opinions on the motions to lift stay and the Order Amending when they filed their Supplemental Pleading with the chancery court. The Debtor alleges that the prayer of the Supplemental Pleading, specifically paragraphs 79C and 79D, is an attempt by the Plaintiff Royalty Owners to have the chancellor apply his ruling to royalty owners other than the fifty-seven Plaintiff Royalty Owners which this Court listed in its Order Amending and to which this Court lifted the stay. In addition, the Debtor alleges that the discovery initiated along with the Supplemental Pleading illustrated that the Plaintiff Royalty Owners were attempting to include additional royalty owners other than the Plaintiff Royalty Owners.

In their response to the Motion for Contempt, the Plaintiff Royalty Owners flatly deny that the Supplemental Pleading was in violation of this Court's orders and that the Supplemental Pleading was an attempt to include additional royalty owners.

Subsequently, the Plaintiff Royalty Owners timely filed their *Plaintiffs' Emergency Motion to Remand and for Sanctions* (Motion to Remand) on March 17, 2005. A final *Order* referring the case to this Court was entered on July 18, 2005, by United States District Judge Tom S. Lee. The removed case is the pending adversary No. 05-0107 presently before the Court. In the Motion to Remand, the Plaintiff Royalty Owners argue that the Court should remand the litigation to the Chancery Court of Simpson County as the litigation was tried by the chancellor, the chancellor had already ruled on the issue of compensatory damages, and the chancellor was about to begin the trial on the issue of punitive damages when the Debtor removed the litigation. In its response to the motion, the Debtor argues that this Court is the best forum in which to conclude the litigation

between it and the Plaintiff Royalty Owners.

CONCLUSIONS OF LAW

I.

This Court has jurisdiction of the subject matter and of the parties to this proceeding pursuant to 28 U.S.C. § 1334 and 28 U.S.C. § 157. This is a core proceeding as defined in 28 U.S.C. § 157(b)(2)(A) and (O).

II.

A.

The first issue before the Court is whether the Plaintiff Royalty Owners' Supplemental Pleading violated this Court's prior orders and the automatic stay found at 11 U. S. C. § 362⁴ and thereby should be subject to sanctions pursuant to § 362(h)⁵ or contempt pursuant to § 105(a).

As stated previously, this Court's May 26, 2004, opinion and judgment on the Second Motion and the July 20, 2004, Order Amending, lifted the automatic stay to allow the chancellor in the Simpson County Litigation to rule on the issues of punitive damages and attorneys fees as to the Plaintiff Royalty Owners but not as to any other royalty owners. The Debtor alleges that the prayer of the Supplemental Pleading, specifically paragraphs 79C and 79D, is in direct violation of this Court's orders to obtain a ruling from the chancellor only as to the Plaintiff Royalty Owners. Paragraphs 79C and 79D in the Supplemental Pleading state as follows:

79. WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray:

⁴Hereinafter, all code sections refer to the Bankruptcy Code found at Title 11 of the United States Code unless specifically noted otherwise.

⁵The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) drastically amended § 362. What was § 362(h) is now § 362(k), as amended. However, since all of the actions complained of by the Debtor took place prior to the October 17, 2005, effective date of the BAPCPA, the Court will use the pre-BAPCPA version § 362(h) in this opinion.

....

C. That the Court will adjudicate the amount of money that Pursue has wrongfully withheld from royalty payments due the other similarly situated royalty owners in the subject fields and order that said sum, plus prejudgment interest, shall be paid into a common fund and that reasonable attorneys' fees and other litigation costs, which are not otherwise accounted for and paid by Pursue through other means, shall be deducted from this common fund, the remainder of which shall be distributed pro rata to each royalty owner according to his ownership interest;

D. That the Court shall enjoin Pursue Energy from charging the royalty owners in the subject field excess processing costs in the future;

Plaintiffs' First Supplemental Pleading Supporting Claim for Punitive Damages, Attorneys' Fees, and Other Relief (January 27, 2005).

In comparing the prayer of the Supplemental Pleading filed on January 27, 2005, with the prayer of the *First Amended Complaint for Discovery, Accounting and Other Relief* (Amended Complaint) filed by the Plaintiff Royalty Owners on December 12, 2001, the Court finds that except for the addition of paragraph 79E in the Supplemental Pleadings, the two prayers are identical. The Court finds that the two paragraphs of the Supplemental Pleading quoted above, the two paragraphs to which the Debtor specifically objected, are exactly the same as paragraphs 77B and 77C of the Amended Complaint. There is nothing to indicate that the Plaintiff Royalty Owners were in any way trying to get the chancellor to act on these two paragraphs, therefore, the Court does not find that these two paragraphs violated any order of this Court.

As stated above, paragraph 79E of the Supplemental Pleading is different from the Amended Complaint. Paragraph 79E of the Supplemental Pleading states:

79. WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray:

....

E. That the Court shall award Plaintiffs punitive damages, attorneys' fees, and costs in an amount to be determined at trial.

Plaintiffs' First Supplemental Pleading Supporting Claim for Punitive Damages, Attorneys' Fees,

and Other Relief (January 27, 2005). The Court finds that this language is in complete accord with this Court's Order Amending and this Court's opinion and judgment on the Second Motion.

Consequently, after reviewing the pleadings filed by the Plaintiff Royalty Owners, the Court finds that the Supplemental Pleading is not an attempt by the Plaintiff Royalty Owners to have the chancellor widen his opinion and apply it to royalty owners other than the Plaintiff Royalty Owners. Nor does the Court find the request for punitive damages found in paragraph 79E to be contrary to this Court's prior rulings. Therefore, the Plaintiff Royalty Owners have not violated this Court's prior orders or the automatic stay, and thereby are not subject to sanctions pursuant to § 362(h)⁶ or contempt pursuant to § 105(a).

B.

The next issue the Court must address concerns the discovery propounded by the parties following the Plaintiff Royalty Owners' filing of the Supplemental Pleading. The Debtor argues that the Plaintiff Royalty Owners' discovery requests and the responses of the Plaintiff Royalty Owners to the Debtor's discovery requests pertain to actions which occurred after the filing of the Debtor's petition in bankruptcy and thereby go beyond the scope of this Court's orders lifting the stay.

At the time the Debtor filed bankruptcy, the Simpson County Litigation centered around the issue as to the proper amount that Pursue could charge the Plaintiff Royalty Owners to process the poisonous gas to turn it into a marketable product. Additionally, the attorneys for the Plaintiff

⁶ The Court would note that even if it had found that the Plaintiff Royalty Owners had violated the automatic stay, the majority view is that § 362(h) sanctions are not available to a corporation because § 362(h) specifically states that it applies to an *individual*. See *Spookyworld, Inc. v. Town of Berlin (In re Spookyworld, Inc.)*, 346 F.3d 1, 8 (1st Cir. 2003); *Maritime Asbestosis Legal Clinic v. LTV Steel Co., Inc. (In re Chateaugay Corp.)*, 920 F.2d 183, 186 (2nd Cir. 1990); *Johnston Environmental Corp. v. Knight (In re Goodman)*, 991 F.2d 613, 619 (9th Cir. 1993); *In re Jove Engineering, Inc.* 92 F.3d 1539, 1551 (11th Cir. 1996); *In re San Angelo Pro Hockey Club, Inc.*, 292 B.R. 118, 124 (Bankr. N.D. Tex. 2003)

Royalty Owners had notified the chancellor during the Simpson County Litigation that they would seek punitive damages because of the formula Pursue had used to charge the Plaintiff Royalty Owners for processing the gas. The chancellor had advised the attorneys for the parties that after the close of the trial, he would first rule on compensatory damages. After the issue of compensatory damages was decided, he would then decide whether to go forward on the issue of punitive damages.⁷

As the matter was presented to this Court during the trials on the motions to lift the stay, the Plaintiff Royalty Owners wanted to return to the chancery court to have the chancellor conclude the matters that were pending at the time the bankruptcy was filed. Specifically, they wanted the chancellor to decide whether punitive damages should be allowed because of the way the Debtor charged the Plaintiff Royalty Owners to process the gas, and if punitive damages were to be allowed, they also wanted the chancellor to determine the monetary amount of the punitive damages and the attorneys fees.

It was in this context that on May 26, 2004, this Court entered its *Findings of Fact and Conclusions of Law on the Second Motion of Certain Royalty Owners to Lift Stay for Purposes of Allowing Chancery Court of Simpson County to Further Rule* and a *Final Judgment* on the Second Motion. The purpose of the opinion and judgment was to allow the chancellor to determine punitive damages and attorneys fees only as to the Debtor's actions prior to and/or during the trial on compensatory damages. It was not to allow a state court to pass judgment on the actions of the Debtor in and during the bankruptcy case.

A review by the Court of the discovery propounded by the Plaintiff Royalty Owners and of

⁷Transcript of Record at 23-25, *Motion of Certain Royalty Owners to Lift Stay for Purposes of Allowing Chancery Court of Simpson County to Enter Ruling* (May 30, 2003).

the responses by the Plaintiff Royalty Owners seems to indicate that the Plaintiff Royalty Owners may attempt to get the chancellor to consider actions of the Debtor other than those that occurred prior to the close of the trial on February 14, 2002. Any such attempt will be outside of the prior opinions and judgments of this Court. Any issues as to the propriety of any debtor filing bankruptcy and of a debtor's conduct during the pendency of the bankruptcy case are matters that are to be decided by a bankruptcy court. However, at this juncture, the Court is of the opinion that the acts in regard to the discovery should not be found to be in contempt of this Court or in violation of this Court's previous orders.

If the chancellor determines that he should award punitive damages and attorneys fees against the Debtor for the Debtor's use of an improper method of charging processing fees to the Plaintiff Royalty Owners prior to February 14, 2002, the Court will allow the Plaintiff Royalty Owners to use any financial information filed by the Debtor post-petition in order to present to the chancellor current information on the Debtor's financial condition and net worth.

III.

Having found that the Plaintiff Royalty Owners should not be held in contempt for filing the Supplemental Pleading, the Court will now consider the *Plaintiffs' Emergency Motion to Remand and for Sanctions*.

Removal and remand are governed by 28 U. S. C. § 1452. As provided in § 1452(b), a court's decision to remand is based solely on principles of equity. Section 1452 provides as follows:

§ 1452. Removal of claims related to bankruptcy cases

(a) A party may remove any claim or cause of action in a civil action. . . , to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.

(b) The court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground. . . .

28 U. S. C. § 1452.

The factors a court should consider in determining whether to grant a motion to remand have been long established in the Fifth Circuit. These factors are:

(1) the convenience of the forum; (2) the presence of non-debtor parties; (3) whether the case should be tried as a whole in state court; (4) the duplicative and uneconomic effect of judicial resources in two forums; (5) the lessened possibility of inconsistent results; (6) whether the state court would be better able to handle issues of State law; (7) the expertise of the Bankruptcy Court; (8) the degree of relatedness or remoteness to the main bankruptcy case; (9) prejudice to involuntarily removed parties; (10) whether the case involves forum shopping; (11) the burden on the Bankruptcy Court's docket; and (12) considerations of comity. *See Browning*, 743 F.2d at 1077 n. 21; *In re U. S. Brass Corp.*, 173 B.R. 1000, 1005 (Bankr. E.D. Tex. 1994).

Texas Gulf Trawling Co., Inc. v. RCA Trawlers & Supply, Inc. (In re Cyclon Negro, Inc.), 260 B.R. 832, 837 (Bankr. S.D. Tex. 2001).

In applying these factors to the matter before the Court, the Court finds that the evidence weighs in favor of equitable remand. As stated above, the Simpson County Litigation which the Debtor removed to U.S. District Court was filed in the Chancery Court of Simpson County in December of 2000. The issue before the chancellor was whether the Debtor had improperly charged expenses and costs to the royalty owners. The chancellor held a four day trial on the matter and has ruled that the Plaintiff Royalty Owners are entitled to compensatory damages. The remaining issue is whether the Plaintiff Royalty Owners are entitled to attorneys fees and punitive damages. This Court finds that the Chancery Court of Simpson County, Mississippi, is the most convenient forum to have the entire case tried as a whole. After having "lived with" this lawsuit and these parties for six years, the Chancery Court of Simpson County, Mississippi, "would be better able to handle (these) issues of State law" *Id.*

In addition, under § 362(d)(1) relief from the stay must be granted for cause shown. "(R)elief. . . may be granted when necessary to permit litigation to be concluded in another forum, particularly if the nonbankruptcy suit involves multiple parties or is ready for trial." 3 Collier on

Bankruptcy ¶ 362.07[3][a] at 362-84.19 (15th Ed. 2006)(footnote omitted). As noted above, this Court has previously lifted the stay on two separate occasions to first allow the chancellor to rule on compensatory damages and then to allow the chancellor to rule on attorneys fees and punitive damages. In the interest of judicial economy, the Simpson County Litigation should be remanded to the Chancery Court of Simpson County, Mississippi, for it to conclude the litigation that has been pending there since the year 2000.

IV.

In their respective motions, both the Plaintiff Royalty Owners and the Debtor seek sanctions against each other. However, having found that the Plaintiff Royalty Owners did not violate any orders of this Court or the automatic stay, the Court will not sanction the Plaintiff Royalty Owners. The Court also finds that the Debtor should not be sanctioned for its removal of the Simpson County Litigation to federal court.

CONCLUSION

The filing of the Supplemental Pleading by the Plaintiff Royalty Owners did not violate any orders of this Court or the automatic stay. Therefore, the Debtor's Motion for Contempt is not well taken and should be denied. Nonetheless, as stated previously, any efforts by the Plaintiff Royalty Owners to seek punitive damages and attorneys fees for any actions by the Debtor subsequent to February 14, 2002, may subject them to appropriate sanctions. The Court further finds that the Plaintiff Royalty Owners may use in the punitive damages trial any financial information filed by the Debtor post-petition in order to present to the chancellor current information on the Debtor's financial condition and net worth.

The Motion to Remand is well taken in part and should be granted in part. Accordingly, the Court finds that the litigation styled James B. "Rusty" Sykes, Jr. *et. al* v. Pursue Energy Corporation, Civil Action No. 2000-0525, is hereby remanded to the Chancery Court of Simpson

County, Mississippi. The Court further finds that the request for sanctions against the Debtor in the Motion to Remand is not well taken and should be denied.

The Debtor and the Plaintiff Royalty Owners have been engaged in a long and arduous battle for many years. This ruling may not lead the parties to a settlement of the matter, but at a minimum this ruling will allow the Chancery Court of Simpson County, Mississippi, to conclude the litigation that has been pending there for six years.

A separate judgment consistent with this opinion will be entered in accordance with Rules 7054, 9014 and 9021 of the Federal Rules of Bankruptcy Procedure.

This the 30th day of October, 2006.

/S/ EDWARD ELLINGTON
EDWARD ELLINGTON
UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

**IN RE:
PURSUE ENERGY CORPORATION**

**CHAPTER 11
CASE NO. 0205339JEE**

JAMES B. "RUSTY" SYKES, JR., ET. AL.

VS.

ADVERSARY NO. 050107

PURSUE ENERGY CORPORATION

**FINAL JUDGMENT ON THE (1) *MOTION FOR CONTEMPT AND
SANCTIONS AGAINST THE SYKES PLAINTIFFS A/K/A CERTAIN ROYALTY
OWNERS AND THEIR ATTORNEYS FOR VIOLATION OF THE JULY 24, 2004
ORDER AMENDING FINDINGS AND JUDGMENT AND PREVIOUS ORDERS OF THIS
COURT REGARDING THE SECOND LIFT STAY MOTION FILED BY CERTAIN
ROYALTY OWNERS AND FOR VIOLATION OF SECTION 362 OF THE BANKRUPTCY
CODE FILED BY THE DEBTOR AND (2) PLAINTIFFS' EMERGENCY MOTION TO
REMAND AND FOR SANCTIONS FILED BY THE PLAINTIFF ROYALTY OWNERS***

Consistent with the Court's opinion dated contemporaneously herewith:

IT IS THEREFORE ORDERED the *Motion for Contempt and Sanctions Against the Sykes Plaintiffs a/k/a Certain Royalty Owners and Their Attorneys for Violation of the July 24, 2004 Order Amending Findings and Judgment and Previous Orders of this Court Regarding the Second Lift Stay Motion Filed by Certain Royalty Owners and for Violation of Section 362 of the Bankruptcy Code* filed by the Debtor on March 1, 2005, is not well taken and is hereby denied.

IT IS FURTHER ORDERED that the Plaintiff Royalty Owners may use in any trial on punitive damages and attorneys fees any financial information filed by the Debtor in this Court to present to the chancellor current information on the Debtor's financial condition and net worth.

IT IS FURTHER ORDERED that the *Plaintiffs' Emergency Motion to Remand and*

for Sanctions filed by the Plaintiff Royalty Owners on March 17, 2005, is well taken in part and that the litigation styled James B. “Rusty” Sykes, Jr. *et. al* v. Pursue Energy Corporation, Civil Action No. 2000-0525, is hereby remanded to the Chancery Court of Simpson County, Mississippi.

IT IS FURTHER ORDERED that the *Plaintiffs’ Emergency Motion to Remand and for Sanctions* filed by the Plaintiff Royalty Owners on March 17, 2005, is not well taken in part and that the request for sanctions against the Debtor is hereby denied.

SO ORDERED this the 30th day of October, 2006.

/S/ EDWARD ELLINGTON
EDWARD ELLINGTON
UNITED STATES BANKRUPTCY JUDGE